

EXHIBIT B

In The Matter Of:
Newell Rubbermaid, Inc. vs.
Lofts, LLC

Scott Bosgraaf
June 9, 2016



Bingham Farms/Southfield • Grand Rapids
Ann Arbor • Detroit • Flint • Jackson • Lansing • Mt. Clemens • Saginaw

Original File BOSGRAAF_SCOTT.txt
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1 UNITED STATES DISTRICT COURT
2 WESTERN DISTRICT OF MICHIGAN
3 SOUTHERN DIVISION
4
5 NEWELL RUBBERMAID, INC.,)
6 Plaintiff/)
7 Counterdefendant,)
8 vs.) No. 1:15-cv-00597-RJJ
9 KIRSCH LOFTS, LLC,)
10 Defendant/)
11 Counterplaintiff.)
12
13
14 The deposition of SCOTT BOSGRAAF, called
15 for examination pursuant to the Rules of Civil
16 Procedure for the United States District Courts
17 pertaining to the taking of depositions, at 233
18 South Wacker Drive, Suite 7500, Chicago, Illinois,
19 on June 9, 2016, at the hour of 9:14 a.m.
20
21
22
23
24 Reporter: Kimberly D. Bures, CSR, RDR, CRR, CRC.
25 Illinois CSR License No.: 084-003292.

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10 SCHIFF HARDIN LLP, by:
11 MR. J. MICHAEL SHOWALTER, and
12 MR. JOSHUA R. MORE,
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21 ALSO PRESENT:
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23
24 * * * * *
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1 **MR. SHOWALTER:** I want to talk about 59.

2 **MR. BILA:** That's what I'm saying. He'd rather

3 show you on 59 what has been incurred.

4 **MR. SHOWALTER:** Oh, that's fine.

5 **MR. BILA:** So you can rule out all that --

6 **MR. SHOWALTER:** Sure. That's fine, that's

7 fine. I'm sorry. I thought he was going to pull

8 another document. That's fine. Go ahead.

9 **THE WITNESS:** If we use Exhibit 58 -- stay on

10 the record. Just pause. If you look at an

11 invoice -- wrong invoice. Sorry. I suppose this

12 isn't a race. Is it?

13 **MR. MORE:** It is not.

14 **MR. SHOWALTER:** We're just trying to get the

15 correct and accurate testimony on the record.

16 **THE WITNESS:** If you go back to Exhibit 58 and

17 you look at the total selection of different

18 categories and the totals on their amount and you

19 look at the total for construction cost for invoice

20 dated December 28, 2010, for \$800,107.20, if you

21 actually look at the invoice and read through the

22 detail, this is the only construction expenses so

23 far that actually have been incurred, but if you

24 look at the invoice, they really don't relate just

25 to one phase. They relate to all three phases, so

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1 you -- a little bit of this would go in each one of

2 these columns from this invoice, and then --

3 **MR. SHOWALTER:** Let's mark this as an exhibit.

4 (Whereupon, Deposition

5 Exhibit 70 was marked for

6 identification as of 06/09/2016.)

7 **THE WITNESS:** And then if you look at -- oh,

8 let's take an item. If you look at DEQ loan and

9 grant, items on Exhibit 58 on here, if you just add

10 together DEQ loan and grant items, you've got a

11 roughly -- you want me use a calculator and be

12 precise or just give you an estimate?

13 **BY MR. SHOWALTER:**

14 Q. Let's just do it generally.

15 **A. Let's just say it's a million three or**

16 **four. Those actually don't have any relation to**

17 **anything on this spreadsheet either because the**

18 **demolition in here was TIF-related demolition.**

19 **That's under this DEQ loan and grant.**

20 **What happened is we got into the building**

21 **and we started the process, and it kind of exploded**

22 **on how much demolition and how much lead and**

23 **asbestos issues we had, and then obviously it went**

24 **into the TCE issue where we had to do the vapor**

25 **barrier and other expenses, hence the loan and the**

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1 grant.

2 **So the only things that have been turned**

3 **in so far against this million five plus the**

4 **contingency fee are the demolition Bosgraaf invoice**

5 **dated December 16, 2009, for roughly 460,646.64 and**

6 **the Bosgraaf invoice dated December 28, 2010 for**

7 **\$433,960.47, and probably the Quality Environmental**

8 **for 41,180.**

9 **Those have been turned in and applied to**

10 **the demolition that's in this spreadsheet. That**

11 **can actually be accurately reflected in this**

12 **document that was produced in discovery where it**

13 **says that these were turned in to -- it doesn't say**

14 **to the ERA, but these were turned in to the Sturgis**

15 **ERA on 12/28/2010. These are costs that are not**

16 **related in any shape or form to the DEQ loan or**

17 **grant, and then also another number that was turned**

18 **in on 12/16/2009 to the Brownfield. Those have all**

19 **been certified, ratified and approved by the**

20 **Brownfield authority. That's where that number**

21 **applies to.**

22 Q. Okay.

23 **A. Now, there's more demo to do on the**

24 **project, yet I anticipate that we will hit this**

25 **number plus the contingency, which is like a**

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1 million eight and some change, plus the loan and

2 the grant functions.

3 **So, in other words, this early estimate**

4 **was way off on what -- I mean, you guys keep**

5 **calling it demo, but it's -- you know, lead and**

6 **asbestos was one area. Selective demo was another**

7 **area. Due care activities under the loan were**

8 **another activity. They're all different things.**

9 **So maybe a better way to summarize it, if**

10 **you look at the historic tax credit that was**

11 **probably sent in in April or May of 2010, it**

12 **actually has a number on it that the budget now is**

13 **like a 12 million-plus number because it's bigger.**

14 **The building got bigger. The demolition costs**

15 **exploded.**

16 Q. Did you submit an application in 2010 for

17 tax credits?

18 **A. In when?**

19 Q. In 2010. Did you just testify that you

20 submitted an application in 2010 for tax credits?

21 **A. For historic tax credits. You have it. I**

22 **have it here if you'd like to see it.**

23 Q. Let's tag some documents here first.

24 **A. Okay.**

25 Q. Let's tag these -- is this the correct